

## REMARKS

Claims 1-23 and 25-30 are pending in the application. Claims 1, 14, 23, and 27 are independent. By the foregoing Amendment, Applicants have amended claims 1, 14, 23, and 27 and canceled claim 24. These changes are believed to introduce no new matter and their entry is respectfully requested.

### Rejection of Claims 14-22 Under 35 U.S.C. §101

In the Office Action, the Examiner rejected claims 14-22 under 35 U.S.C. §101 as being directed to non-statutory subject matter. In particular, the Examiner states that claims 14-22 are not limited to tangible embodiments because, in view of the Specification at paragraph [0046] that the machine-readable medium can include propagated signals, which do not fall within a statutory category of subject matter eligibility. By the foregoing Amendment, Applicants have amended claims 14-22 to be limited to tangible embodiments. Accordingly, Applicants respectfully request that the Examiner reconsider and remove the rejection to claims 14-22.

### Rejection of Claims 1-3 and 5-6 Under 35 U.S.C. §102(e)

In the Office Action, the Examiner rejected claims 1-3 and 5-6 under 35 U.S.C. §102(e) as being anticipated by U.S. Patent Application No. 2003/0229694 to Tsai et al. (hereinafter "*Tsai*"). A claim is anticipated only if each and every element of the claim is found, either expressly or inherently, in a reference. (MPEP §2131 *citing Verdegaal Bros. v. Union Oil Co. of California*, 814 F.2d 628 (Fed. Cir. 1987)). The identical invention must be shown in as complete detail as is contained in the claim. *Id. citing Richardson v. Suzuki Motor Co.*, 868 F.2d 1226,1236 (Fed. Cir. 1989)). Applicants respectfully traverse the rejection.

Applicants respectfully submit that *Tsai* fails to disclose the identical invention as recited in claim 1. Amended claim 1 recites in pertinent part "receiving request to access firmware of a remote computer from using a remote firmware interface of a caller computer on a network, the *remote firmware interface operating with an* Extensible Firmware Interface (*EFI framework standard*)" (emphasis added). Support for these changes can be

found in original claim 22 and Applicants' Specification at paragraphs [0013] and [0034] – [0038] according to at least some embodiments.

Applicants respectfully submit that *Tsai* fails to disclose receiving a remote firmware interface operating with an Extensible Firmware Interface (EFI) framework standard. The Examiner in paragraph 38 of the Office Action also concedes that that *Tsai* fails to disclose receiving a remote firmware interface operating with an Extensible Firmware Interface (EFI) framework standard. As such, *Tsai* fails to anticipate claim 1. Accordingly, Applicants respectfully request that the Examiner reconsider and remove the rejection to claim 1.

Claims 3 and 5-6 properly depend from claim 1. Accordingly, Applicants respectfully submit that claims 3 and 5-6 are patentable for at least the same reasons that claim 1 is patentable. (MPEP §2143.03 (citing *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988))). Accordingly, Applicants respectfully request that the Examiner reconsider and remove the rejection to claims 1-3 and 5-6.

Rejection of Claims 4, 7-21, 23-25, and 27-30 Under 35 U.S.C. §103(a)

In the Office Action, the Examiner rejected claims 4, 7-21, 23-25, and 27-30 under 35 U.S.C. §103(a) as being obvious *Tsai* in view of over U.S. Patent No. 5,715,387 to Barnstijn et al. (hereinafter "*Barnstijn*"). Applicants respectfully traverse the rejection.

To establish a *prima facie* case of obviousness, an Examiner must show that there is some expectation of success that the combination proffered would result in the claimed invention. The Examiner also must show that the cited references teach each and every element of the claimed invention. (MPEP §2143.) *citing In re Vaeck*, 947 F.2d 488, 20 USPQ2d 1438 (Fed. Cir. 1991)). A patent composed of several elements is not proved obvious merely by demonstrating that each of its elements was independently known in the prior art. *KSR Int'l C. v. Teleflex, Inc.*, No 04-1350 (U.S. Apr. 30, 2007). It can be important to identify a reason that would have prompted a person of ordinary skill in the relevant field to combine the prior art elements in the manner claimed. (*Id.*)

Applicants respectfully submit that *Tsai* in view of *Barnstijn* fails to disclose each and every element as recited in independent claims 14, 23, and/or 27. Representative

amended claim 14 recites in pertinent part” executing a task contained in the request packet, *wherein the task is expressed in a scripting language*, wherein executing the task is performed independent of the operating system of the remote computer” (emphasis added). Independent claims 23 and 27 include similar language. Support for these changes can be found in original claim 24.

In paragraph of the Office Action with reference to claim 7, the Examiner concedes that *Tsai* does not disclose wherein the programming code is a scripting language. The Examiner cites *Barnstijn* for disclosing wherein programming code is a scripting language. Applicants respectfully disagree.

*Barnstijn* appears to be directed to remote testing of trial application programs. The Examiner cites column 2, lines 3-7 in *Barnstijn* for teaching wherein the programming code is a scripting language. Applicants respectfully submit that column 2, lines 3-7 describe “When the application program is to be down-loaded, the program instructions are typically generated using prior art methods by a compiler or assembler with relative address references for both code and data.” Applicants respectfully submit that equating this teaching in *Barnstijn* for teaching wherein the programming code is a scripting language is in error. Scripts can be distinguished from programs because programs are converted permanently into binary executable files before they are run. Scripts remain in their original form and are interpreted command-by-command each time they are run. Scripts tend to shorten the traditional edit-compile-link-run process. Thus, Applicants respectfully submit that the program instructions described in *Barnstijn* do not refer to a scripting language. Applicants respectfully submit that because *Tsai* in view of *Barnstijn* fails to disclose each and every element of claims 14, 23, and/or 27 *Tsai* in view of *Barnstijn* fails to render claims 14, 23, and/or 27 obvious. Because *Tsai* in view of *Barnstijn* fails to render claim 14, 23, and/or 27 obvious, Applicants respectfully submit that claims 14, 23, and/or 27 are patentable over *Tsai* in view of *Barnstijn*.

Claim 24 has been canceled rendering the rejection of it moot. Claims 4 and 7 properly depend from claim 1 and are thus patentable for at least the same reasons that claim 1 is patentable. Claim 21 properly depends from claim 14 and is thus patentable for at least the same reasons that claim 14 is patentable. Claim 25 properly depends from claim 23 and is

thus patentable for at least the same reasons that claim 23 is patentable. Claims 28-30 properly depend from claim 27 and is thus patentable for at least the same reasons that claim 27 is patentable. (MPEP §2143.03 (citing *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988))). Accordingly, Applicants respectfully request that the Examiner reconsider and remove the rejection to claims 4, 7-21, 23-25, and 27-30.

Rejection of Claims 22 and 26 Under 35 U.S.C. §103(a)

In the Office Action, the Examiner rejected claims 22 and 26 under 35 U.S.C. §103(a) as being obvious *Tsai* in view of *Barnstijn* in further view of over U.S. Patent No. 6,907,482 to Maciesowicz (hereinafter “*Maciesowicz*”). Applicants respectfully traverse the rejection.

Claims 22 and 26 properly depend from claims 14 and 23, respectively. Accordingly, Applicant respectfully submits that claims 22 and 26 are patentable for at least the same reasons that claims 14 and 23 are patentable. (MPEP §2143.03 (citing *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988))). Accordingly, Applicants respectfully request that the Examiner reconsider and remove the rejection to claims 22 and 26.

## CONCLUSION

Applicants respectfully submit that all grounds for rejection have been properly traversed, accommodated, or rendered moot and that the application is now in condition for allowance. The Examiner is invited to telephone the undersigned representative if the Examiner believes that an interview might be useful for any reason.

Respectfully submitted,

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